

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT HUNTINGTON

IN RE: : MDL NO.
ETHICON INC., : 2:12-MD-02327
PELVIC REPAIR SYSTEM :
PRODUCTS LIABILITY LITIGATION :
:
:
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x

TELEPHONIC HEARING

BEFORE THE HONORABLE
CHERYL A. EIFERT
UNITED STATES MAGISTRATE JUDGE

THURSDAY FEBRUARY 6, 2014

CATHERINE L. SCHUTTE-STANT, RPR, RMR
Federal Official Court Reporter
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Room 6009
Charleston, WV 25301
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1 that if you've already covered this ground and you just
2 failed to ask certain questions -- and I do specifically
3 recall reading testimony by Mr. Mittenthal where he said
4 that some people didn't understand what their obligations
5 were, so that was already stated in the testimony. And I
6 don't think the deposition ought to be an opportunity for
7 you now to go ask questions you did not ask the first time.

8 It would be an opportunity for you to reformat the
9 testimony in a way that makes it easier for the jury to
10 understand, but not to actually go plow new ground.

11 MR. FREESE: Your Honor, I understand.

12 THE COURT: Having said that, I think the
13 plaintiffs should be able to take this. This is an
14 important point to their case.

15 I still want to point out that, you know, one of the
16 big problems I had with the spoliation motion, I mean
17 obviously documents were destroyed that were probably --
18 some of them probably relevant to your case under the
19 definition of relevance for spoliation. But, you know, I
20 still didn't see the prejudice. I didn't see the smoking
21 gun like you had in Actos. I didn't see anything there that
22 made me think that you're missing something really crucial
23 to your case, which is what you almost need to have to get
24 an adverse inference instruction. And I just didn't see
25 that.